

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3055 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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SAJUBHA VEGHUBHA RANA

Versus

STATE OF GUJARAT

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Appearance:

MR SK JHAVERI for Petitioner

MR VB GHARANIA for Respondent

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 03/12/96

ORAL JUDGMENT

Heard learned counsel for the parties.

2. The petitioner, a police Head Constable of State of Gujarat, filed this petition challenging thereunder the order of the respondent No.2 dated 1st May 1985, under which he was ordered to be reverted from the post of Head Constable Gr.II to the post of Constable.

3. Briefly stated facts of the case are that the petitioner was originally recruited as Unarmed Police Constable by the District Superintendent of Police (Railways), Baroda. The petitioner was transferred to District of Gandhinagar by the Director General of Police and came to be posted with effect from 20th September 1983 as Police Constable in the Protection Branch for the pass-checking duties at Sachivalaya, Gandhinagar. The Selection Board for promotion to the cadre of Head Constable Gr.II was held and on being selected by the Board the petitioner was promoted to the post of Head Constable Gr.II by the District Superintendent of Police (Ahmedabad Rural & Gandhinagar) under the order dated 8th June 1984. The petitioner was ordered to be transferred, on administrative ground to Ahmedabad city in the Local Intelligence Branch as Head Constable and he joined there on 1st January 1985. Under the order dated 10th May 1985 issued by Deputy Commissioner of Police (Administration), Ahmedabad City, the petitioner was sought to be reduced to the rank by reverting him from the cadre of Head Constable, Gr.II to the cadre of Constable with effect from 1st January 1985. This order has been challenged by the petitioner before this Court.

3. The learned counsel for the petitioner, Shri S.K.Jhaveri contended that the petitioner was given promotion after he was found suitable for the same by the Selection Board. It was a case of regular promotion and as such his reversion could have been done only after giving him a reasonable opportunity of hearing. It has next been contended that the petitioner has been reverted only on the ground that he has been transferred from Gandhinagar to Ahmedabad which cannot be a ground for reversion as the petitioner was transferred to Ahmedabad from Gandhinagar on administrative reasons. Lastly the learned counsel for the petitioner contended that under the order dated 8th June 1984, as many as 16 Constables were promoted to the post of Head Constable and the other juniors were retained on the said post whereas only the petitioner has been reverted. On the other hand, the learned counsel for the respondent supported the order impugned in this Special Civil Application.

4. I have given my thoughtful considerations to the submissions made by the learned counsel for the parties.

5. None of the respondents have filed reply to the Special Civil Application and as such the facts stated therein stand uncontroverted. There is no issue raised by the respondent that the petitioner has been given promotion after having found suitable by the Selection

Board. There is also no issue on the question that the petitioner was transferred to Ahmedabad on administrative reasons and lastly there is no issue on the question that the order impugned in this Special Civil Application of the reversion of the petitioner from the post of Head Constable Gr.II to that of Constable has been passed without giving any notice or opportunity of hearing to the petitioner. Over and above that, the respondent have not controverted the fact that the other junior persons promoted alongwith the petitioner have been retained on the said post whereas only the petitioner has been reverted.

6. The respondents have failed to give out any ground for reversion of the petitioner. The petitioner was transferred to Ahmedabad from Gandhinagar on administrative grounds and as such the transfer of the petitioner could not have been the ground for his reversion, more so when it is a case where the petitioner was given promotion after he has been found suitable for the same by Selection Board. It was a regular promotion and as such if for any reason the respondent No.2 considers it necessary to revert him, then principles of natural justice have to be complied with, which admittedly has not been followed in the present case. The respondents have also failed to give out any justification why the petitioner alone has been chosen for reversion whereas other juniors were retained on the higher promoted post.

7. Taking into consideration the totality of the facts of the case, the order of reversion of the petitioner, annexure 'B' cannot be allowed to stand. In the result this petition succeeds and the same is allowed. The order, annexure 'B' dated 1st May 1985 is quashed and set aside. Rule made absolute in aforesaid terms with no order as to costs.

8. Before parting with the case, I consider it to be appropriate to observe that the learned counsel for the petitioner is not sufficiently vigilant to see that the date of the impugned order is correctly given in the record of the case. In the body of writ petition, the date of the impugned order is given as 10th May 1985, but annexure 'B' a copy of said order which produced alongwith the petition bears the date as 1st May 1985. It is expected of the learned counsel to be careful in giving out the details of the documents otherwise it results in some error in the judgment.

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(sunil)